

House File 2308 - Introduced

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BY McCONKEY, PRICHARD, and
WOLFE

A BILL FOR

1 An Act permitting the establishment of online pretrial
2 diversion programs for certain motor vehicle-related
3 offenses, and providing fees.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. **905A.1 Definitions.**

2 For the purposes of this chapter, unless the context
3 otherwise requires:

4 1. "*Department*" means the state department of
5 transportation.

6 2. "*Minor traffic offense*" means a violation of chapter
7 321 which is punishable as a simple misdemeanor or for which
8 a scheduled fine is provided in section 805.8A, except for a
9 violation of any of the following:

10 a. Section 321.20B, 321.218, 321.262, 321.264, 321.277,
11 321.277A, 321.278, or 321.279.

12 b. Section 321.285, where the vehicle was traveling
13 twenty-five miles per hour or more over the posted speed limit
14 or at ninety-five miles per hour or more.

15 c. Section 321.372, subsection 3.

16 d. Any other moving traffic violation under chapter 321 that
17 occurs within a road work zone or that results in injury to or
18 the death of another person.

19 Sec. 2. NEW SECTION. **905A.2 Pretrial diversion programs —**
20 **establishment by local entity.**

21 Upon approval by the board of supervisors of a county, a
22 county attorney may establish a pretrial diversion program
23 in the county. Upon approval by a city council, the city
24 attorney may establish a pretrial diversion program in the
25 city. A program established under this section shall meet the
26 requirements set forth in this chapter.

27 Sec. 3. NEW SECTION. **905A.3 Pretrial diversion programs —**
28 **requirements.**

29 1. A pretrial diversion program shall allow a person who
30 is a resident of this state and who has been charged with
31 or received a citation for a minor traffic offense to have
32 the option to complete an internet-based class related to
33 understanding the traffic laws of this state, the strategies
34 available for the safe operation of motor vehicles, and the
35 deterrence of future violations. Upon completion of the class,

1 the person's charge or citation shall be dismissed. However,
2 the person shall pay all court costs associated with the
3 person's charge or citation.

4 2. A person eligible for a pretrial diversion program shall
5 have the opportunity to review a copy of the requirements of
6 the program, including duration, cost, and possible outcomes,
7 with the person's legal counsel prior to deciding whether to
8 enroll in the program. Enrollment in the program shall not be
9 conditioned on a plea of guilty by the person. A person may
10 withdraw from the program at any time before the completion
11 of the program, and shall be remanded to the judicial process
12 for adjudication of the person's charge or citation without
13 prejudice to the person.

14 3. A person shall complete the program within ninety days of
15 being charged with or receiving a citation for a minor traffic
16 offense. If a person enrolls in but does not withdraw from or
17 complete the program within ninety days of being charged with
18 or receiving a citation for a minor traffic offense, the person
19 shall be remanded to the judicial process for adjudication
20 of the person's charge or citation without prejudice to the
21 person, and the department shall suspend the driver's license
22 of the person for a period of ninety days.

23 4. A person who has completed a pretrial diversion program
24 in the previous three-year period shall not be eligible for
25 enrollment in a pretrial diversion program.

26 5. The administrator of a county's or city's pretrial
27 diversion program shall send a record of each enrollee to the
28 department. The department shall retain the enrollee's record
29 in a confidential list for the three-year period following the
30 enrollee's completion of the program. After the three-year
31 period has expired, the record of the enrollee shall be deleted
32 from the confidential list. The administrator of a county's or
33 city's pretrial diversion program may access the department's
34 confidential list for the purposes of subsection 4. The
35 department may charge a fee to the administrator for such

1 access in an amount sufficient to cover the cost of maintaining
2 the confidential list.

3 6. A person enrolled in a program may be charged a program
4 participation fee by the county or city in an amount approved
5 by the department. The fee shall be sufficient to cover the
6 costs to the county or city for administering the program,
7 including any payment by the county or city to the department
8 under this chapter. Fees collected under this subsection
9 shall be used by the county or city for the administration and
10 operation of the program.

11 7. An organization or governmental entity desiring to offer
12 an online class as part of a program shall obtain a certificate
13 from the department to be renewed annually. The certificate
14 shall represent the department's approval of the length,
15 curriculum, instructors, and fees of the class. The department
16 may charge a fee for the certificate in an amount sufficient to
17 cover the costs of the certification process.

18 8. A person holding a commercial driver's license or
19 commercial learner's permit shall not be eligible to enroll in
20 a program if the person's participation in the program would
21 violate federal law.

22 9. The department shall adopt rules pursuant to chapter 17A
23 to administer this chapter including but not limited to rules
24 regarding formal eligibility requirements for participants in a
25 pretrial diversion program, the length of and curriculum for a
26 class provided as part of a pretrial diversion program, program
27 instructor certification, the collection of enrollment and
28 completion records from the pretrial diversion programs in the
29 state, and the amount of the fees assessed under this chapter.

30 EXPLANATION

31 The inclusion of this explanation does not constitute agreement with
32 the explanation's substance by the members of the general assembly.

33 This bill allows a county or city to establish a pretrial
34 diversion program for persons charged with or issued a citation
35 for a minor traffic offense. The bill defines "minor traffic

1 offense" as a violation of Code chapter 321 which is punishable
2 as a simple misdemeanor or for which a scheduled fine is
3 provided in Code section 805.8A, except for operating a motor
4 vehicle without financial liability coverage, operating a motor
5 vehicle with a suspended or revoked driver's license, leaving
6 the scene of a traffic accident, passing a stopped school
7 bus, reckless driving, careless driving, drag racing, eluding
8 law enforcement, speeding 25 miles per hour or more over the
9 speed limit, speeding 95 miles per hour or more, or any moving
10 traffic violation that occurs within a road work zone or that
11 results in injury to or the death of another person.

12 A pretrial diversion program allows a person who is a
13 resident of Iowa and who has been charged with or received a
14 citation for a minor traffic offense to have the option to
15 complete an internet-based class related to understanding the
16 traffic laws of this state, the strategies available for the
17 safe operation of motor vehicles, and the deterrence of future
18 violations. Upon completion of the class, the person's charge
19 or citation is dismissed. The person is required to pay the
20 court costs associated with the person's charge or citation.

21 The bill prohibits enrollment in the program from being
22 conditioned on a plea of guilty by the person. A person may
23 withdraw from the program at any time before the completion of
24 the program.

25 The bill requires a person to complete the program within
26 90 days of being charged with or receiving a citation for a
27 violation. If a person enrolls in but does not withdraw from
28 or complete the program within 90 days, the person shall be
29 remanded to the judicial process for the person's charge or
30 citation, and the department of transportation (DOT) shall
31 suspend the driver's license of the person for a period of 90
32 days.

33 The bill prohibits a person who has completed a pretrial
34 diversion program in the previous three-year period from
35 enrolling in a pretrial diversion program.

1 The bill directs the DOT to retain an enrollee's record in
2 a confidential list for the three-year period following the
3 enrollee's completion of the program. After the three-year
4 period has expired, the record of the enrollee shall be
5 deleted from the confidential list. The administrator of a
6 county's or city's pretrial diversion program may access the
7 DOT's confidential list. The DOT may charge a fee to the
8 administrator for such access in an amount sufficient to cover
9 the cost of maintaining the confidential list.

10 A person enrolled in a program may be charged a fee by the
11 county or city for participation in the program in an amount
12 approved by the DOT. The fee shall be in an amount sufficient
13 to cover the costs to the county or city for administering
14 the program and the fees collected shall be used for the
15 administration and operation of the program.

16 An organization or governmental entity desiring to offer an
17 online class as part of a program must obtain a certificate
18 from the DOT to be renewed annually. The certificate shall
19 represent the DOT's approval of the length, curriculum,
20 instructors, and fees of the class. The DOT may charge a fee
21 for the certificate in an amount sufficient to cover the costs
22 of the certification process.